

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 16009 of 2007(E)

ID.85/1999 of LABOUR COURT, KOLLAM

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PETITIONER:

C.YOHANNAN, S/O.T.K.CHACKO,
KUNNIL VEEDU, ALUMMOODU P.O.,
MUKHATHALA, KOLLAM.

BY ADV. SRI.VIKANTH K.PUTHUMANA

RESPONDENTS:

1. S.ALBERT, THENGUVILA VEEDU,
T.K.M.C. P.O., KILIKOLLUR P.O.,
KOLLAM.

2. DISTRICT LABOUR OFFICER, KOLLAM.

BY G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.16009 of 2007

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Dated this the 28th day of May, 2007

J U D G M E N T

The petitioner challenges Ext.P3 award of the Labour Court, Kollam, in this writ petition. The issue referred for adjudication was:

"Whether the alleged denial of employment of Sri.B.Albert, Tyreman of Ruby Tyre Works, Pattathanam, Kollam with effect from 13.7.1996 is justifiable? If not, what relief is entitled to the worker".

2. The contention of the 1st respondent before the Labour court was that he was engaged by the opposite party in tyre retreading and repair from 1973 to July, 1996. Thereafter, he was involved in an accident and hospitalised. When he reported for duty after he recovered, he was denied employment. The management flatly denied the employer-employee relationship between the petitioner and the 1st respondent. According to him, the 1st respondent was only an autorichshaw driver and was never employed

by the petitioner. On the other hand, he was only paid commission for canvassing work for the petitioner's establishment. The Labour Court, on the evidence before it, found that the workman's contention that he was employed in the petitioner's establishment was acceptable and the management denied employment to him. However, taking into account the fact that the establishment was closed, relief granted to the 1st respondent was restricted to payment of compensation to the tune of Rs.10,000/-. This award is under challenge in this writ petition.

3. After hearing the counsel for the petitioner, I am not inclined to admit this writ petition. The Labour Court passed the award mainly on the basis of two certificates issued by the petitioner-management himself, wherein it was stated that the 1st respondent was employed in the petitioner's establishment from 15.2.1973 and he was an expert in vulcanising work and retreading. The Labour Court also disbelieved the contention of

the management finding that the 1st respondent obtained a licence for riding an autorickshaw only subsequent to July, 1996 when the 1st respondent was stated to have been denied employment. In answer to this, the evidence adduced by the petitioner-management was only self-serving attendance register and wage register maintained by him. Since in fact the Labour Court specifically found that the genuineness of the certificate issued by the petitioner himself was not challenged in the cross-examination by the 1st respondent and that it was not denied by the petitioner when he was examined as MW1. In fact the Labour Court relied on the fact that in cross examination the suggestion was that the workman did not work in the establishment after 1980, which, the Labour Court found, was obviously to overcome the two certificates issued by the management.

4. In the light of the above evidence, it cannot, by any stretch of imagination, be held that the finding of fact entered into by the Labour

Court is in any way demonstrably perverse which alone would give me jurisdiction to interfere with Ext.P3 award. Even assuming that another view is also possible, I cannot interfere in exercise of my jurisdiction under Articles 226 and 227 of Constitution of India. In the above circumstances, I do not find any merit in the writ petition and accordingly the same is dismissed.

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S.SIRI JAGAN, JUDGE